

AF IZW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences

In re Patent Application of

WILSON

Serial No. 09/680,334

Filed: October 6, 2000

Title: TEST BITSTREAM GENERATOR AND METHOD

Atty Dkt.: 550-183

C# M#

TC/A.U.: 2857

Examiner: E. Desta

Date: December 2, 2004



Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Correspondence Address Indication Form Attached.

NOTICE OF APPEAL

Applicant hereby **appeals** to the Board of Patent Appeals and Interferences from the last decision of the Examiner twice/finally rejecting applicant's claim(s). (\$ 340.00) \$

An appeal **BRIEF** is attached in the pending appeal of the above-identified application (\$ 340.00) \$

Credit for fees paid in prior appeal without decision on merits -\$ ()

A reply brief is attached in triplicate under Rule 41.41 (no fee)

Petition is hereby made to extend the current due date so as to cover the filing date of this paper and attachment(s) (\$110.00/1 month; \$430.00/2 months; \$980.00/3 months; \$1530.00/4 months) \$

SUBTOTAL \$ 0.00

Applicant claims "Small entity" status, enter 1/2 of subtotal and subtract
 "Small entity" statement attached.

SUBTOTAL \$ 0.00

Less month extension previously paid on

-\$(0.00)

TOTAL FEE ENCLOSED \$ 0.00

Any future submission requiring an extension of time is hereby stated to include a petition for such time extension. The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our **Account No. 14-1140**. A duplicate copy of this sheet is attached.

1100 North Glebe Road, 8th Floor
Arlington, Virginia 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100
JRL:at

NIXON & VANDERHYE P.C.
By Atty: John R. Lastova, Reg. No. 33,149

Signature: 



IN THE UNITED STATES PATENT
AND TRADEMARK OFFICE

In re Patent Application of

Wilson

Atty. Ref.: 550-183

Serial No. 09/680,334

Group: 2857

Filed: October 6, 2000

Examiner: Desta, E.

For: TEST BITSTREAM GENERATOR AND METHOD

Before the Board of Patent Appeals and Interferences

REPLY BRIEF FOR APPELLANT

**In Response to the Examiner's Answer
from Group Art Unit 2857**

John R. Lastova
NIXON & VANDERHYE P.C.
8th Floor, 1100 North Glebe Road
Arlington, Virginia 22201-4714
(703) 816-4025
Attorney for Appellant



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences**

In re Patent Application of

WILSON

Atty. Ref.: 550-183

Serial No. 09/680,334

TC/A.U.: 2857

Filed: October 6, 2000

Examiner: E. Desta

For: TEST BITSTREAM GENERATOR AND METHOD

* * * * *

December 2, 2004

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REPLY BRIEF

In response to the Examiner's Answer dated October 5, 2004, Applicant submits this Reply Brief.

In the Examiner's Answer, the Examiner abandons the first position taken in the final rejection, at numbered paragraph 2, lines 5-6, in which the claimed "predefined syntax" was read on a "known sequence of data," making reference to column 1, lines 51-59 of Panaro. However, the Examiner maintains the secondary position on page 7 of the final Office Action that the predefined syntax corresponds to "a MPEG coding algorithm." The Examiner cites an MPEG-related document to support the contention that a predefined syntax is one of the characteristics of an MPEG coding scheme. But

that is not a disputed issue. Whether the MPEG-4 standard has a predefined syntax is irrelevant to whether the rejected claims are anticipated in view of Panaro.

Claims 1 and 11 recite "generating test code incorporating the syntax." The Examiner considers Panaro's predictive coder algorithm to be the claimed test code. In contrast to the quoted claim language, Panaro's predictive coder algorithm is separate from the MPEG-4 syntax. The function of Panaro's predictive coder algorithm is to compress an image in order to generate bitstreams which have the required MPEG-4 syntax. Although the compressed image bitstream output from the predictive coder will conform with the predefined MPEG-4 syntax, that predictive coder algorithm itself does not incorporate the MPEG-4 syntax as the predictive coder algorithm is generated.

At a first fundamental level, Panaro does not disclose generating the MPEG coding algorithm. Panaro's MPEG coding algorithm appears to be a standard, off-the-shelf MPEG coding algorithm.¹ There is no need to generate an already-generated, off-the-shelf MPEG coding algorithm. Panaro simply executes it. Secondly, Panaro also does not disclose that the process of generating the MPEG coding algorithm actually includes—as part of that process—incorporating the MPEG-4 syntax.

Still further, Panaro also does not disclose that the test code (the MPEG coding algorithm) is executed "for each of said variables, assigning that variable one of its interested values, thereby generating a test bitstream dependent on the interesting value

¹ This understanding is consistent with Panaro's invention, which is not concerned with the MPEG coding algorithm itself, but rather is concerned with the choice of images from which to generate the test bitstream (see column 2, lines 20 to 45). Panaro certainly does not provide any details as to how the MPEG coding algorithm is generated.

assigned to each variable," where that test code execution is "repeated until each variable has been assigned each of its interesting values, whereby a set of test bitstreams is generated." By incorporating the syntax within the test code, and assigning each variable each of interesting values, the set of test bitstreams produced in claims 1 and 11 can exercise the syntax extensively.

The Examiner reads the claimed "variables" on Panaro's "motion vectors." Contrary to the Examiner's contention, Panaro's predictive coder does not assign each variable (motion vector) each of its interesting values. Indeed, Panaro teaches that certain motion vector values are specifically excluded in column 5, lines 40-51, i.e., "the bit stream only contains motion vectors for the center blocks and does not contain vectors for edge blocks." Column 5, lines 44-46. Since Panaro clearly states that the bitstream only contains a subset of possible motion vectors, i.e., only those for the center block, and the bitstream does not contain motion vectors for edge blocks, each variable (motion vector) has clearly not been assigned each of its interesting values, as recited in the independent claims.

In addition, there is no evidence that the values assigned to Panaro's I-frame, P-frame, and B-frame ever varies. Indeed, the B-frame is repeated multiple times using the same values. A repeated sequence is not what is claimed. To the contrary, the claims recite executing the test code repeatedly with different values assigned to each variable "until each variable has been assigned each of its interesting values" during test code execution. The Examiner fails to disclose where Panaro discloses this feature.

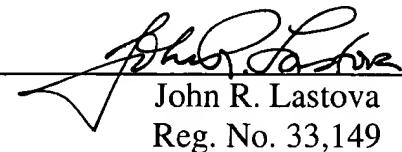
WILSON
Serial No. 09/680,334

For the reasons set forth in the Brief and above, it is evident that Panaro lacks features recited in the currently rejected claims. Accordingly, the Board should reverse the outstanding Office Action.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By:



John R. Lastova
Reg. No. 33,149

JRL:at
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100